

MINUTES
TEXAS BOARD OF PROFESSIONAL ENGINEERS
REGULAR QUARTERLY BOARD MEETING
1917 SOUTH INTERSTATE 35
AUSTIN, TX 78741
MAY 23, 2013 – 10:30 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer called the Texas Board of Professional Engineers Regular Quarterly Board meeting to order at 10:30 am on May 23, 2013, at the Texas Board of Professional Engineers', 1917 S. Interstate 35, Austin, TX. (Note: All votes are unanimous unless otherwise noted.)

1. Roll Call and Welcome Visitors.

Daniel O. Wong, Ph.D., P.E.	Chair
James "Jim" Greer, P.E.	Vice Chair (excused absence)
Elvira Reyna	Secretary - Public Member
Edward Summers, Ph.D.	Treasurer - Public Member
Carry Ann Baker	Public Member
Lamberto "Bobby" Ballí, P.E.	Member
Sina Nejad, P.E., PEng.	Member
R. Kyle Womack, P.E.	Member
Sockalingam "Sam" Kannappan, P.E.	Public Member

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board. Mr. Edmundo Gonzalez, P.E., and Mr. Jose I. Guerra, P.E., Emeritus Board Members were present.

The following staff members were present:

Lance Kinney, P.E.	Executive Director
Priscilla Pipho, MPA	Deputy Executive Director
David Howell, P.E.	Director of Licensing
C.W. Clark, P.E.	Director of Compliance & Enforcement
Jeff Mutscher	Director of Finance
Dewey Helmcamp, III JD	Staff Attorney
Dorothy Gonzales	Executive Assistant

Visitors. Terry Bilderback, P.E., Texas Society of Professional Engineers (TSPE); Doug Bell, P.E., TSPE; Trish Smith, Executive Director, TSPE; Peyton McKnight, American Council of Engineering Companies - Texas (ACEC); Bill Tucker, Texas Department of Transportation (TxDOT); Bridget Stehling, Westbrook Engineering; James Westbrook, P.E., Westbrook Engineering.

2. Welcome New Board Chair. Mr. Kinney welcomed newly appointed Board Chair, Daniel Wong, Ph.D., P.E. He commented that we look forward to working with him.

3. Public Comment. None.

4. Welcome New Board Members. Dr. Wong welcomed two new Board members appointed by Governor Perry.

- Sina K. Nejad, P.E., P.Eng.
- R. Kyle Womack, P.E.

5. Consent Agenda.

(The following items may be acted upon under Consent Agenda and are marked with an asterisk* on the Regular Quarterly Board Meeting Agenda)
(Motion Required)

- February 13, 2013, Licensing Committee Minutes
- February 14, 2013, Legislative Issues Committee Minutes
- February 14, 2013, Regular Quarterly Board Meeting Minutes
- Administrative Reports and Outstanding Administrative Penalties and Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments
- Licensing Applications.

It was MOVED/SECONDED (Ballí/Baker) to approve the Consent Agenda as submitted. A vote was taken and the MOTION PASSED.

Agenda item #22 was taken out of order, see below.

Discuss and Possibly Approve Board Minutes:

6. ***(Consent Agenda)** Discuss and possibly approve minutes of the February 14, 2013, Regular Quarterly Board Meeting Minutes.

Discuss and Possibly Accept Committee Minutes:

7. ***(Consent Agenda)** February 13, 2013, Licensing Committee Minutes.
8. ***(Consent Agenda)** February 14, 2013, Legislative Issues Committee Minutes.

Agenda items 6-8, we approved in Consent Agenda.

Discuss and Possibly Act on the following agenda items (9-12):

9. **Board Members' Activity Reports.** Dr. Wong reported that the Board members' activity reports are included as exhibits for review.
 - Ballí
 - Kannappan
 - Nejad
 - Reyna
 - Summers
 - Wong
 - Womack
10. **Emeritus Members.** Dr. Wong reported that the Emeritus Board members' activity reports are included as exhibits for review.
 - **Activity Reports.**
 - Gonzalez
 - Guerra
11. **Budget.**
 - **FY13 2nd Quarter Budget Report.** Mr. Mutscher reviewed the second quarter budget, which was included as an exhibit, with Board members. One minor correction to the report was noted to change the heading to read September 1, 2013, through February 28, 2013.
 - **Proposed Draft FY14 Budget.** Mr. Mutscher reviewed the draft budget for Fiscal Year 2014 with Board members. Items discussed for possible consideration were fee increase models and the background check process required by Sunset legislation. Mr. Mutscher will have the FY 14 final proposed draft budget for approval at the August 2013 Board meeting. Dr. Wong stated that if anyone has comments and/or ideas to please share them with him and he will discuss/forward to Dr. Summers and Mr. Mutscher. No official action was taken at this time.
12. **Performance Measures.** Mr. Howell reviewed the performance measure package with Board members which was included as an exhibit. He outlined the new format and discussed the upcoming changes.

Discuss and Possibly Act on Issues Regarding Committee Reports or Items on the Committee Agendas:

13. General Issues Committee.

Discuss and possibly act on the following rule adoption:

- **§137.5 Notification of Name Change, Address Change, Employer Change,**

and Criminal Conviction. Mr. Clark reported that this change requires that all PE's report any change in status that will affect their license.

It was MOVED/SECONDED (Baker/Womack) to approve the Committee's recommendation to adopt §137.5 as presented to the Board. A vote was taken and the MOTION PASSED.

Discuss and possibly act on the following rule proposal:

- **§131.35 Employee Training (4)(d).** Mr. Mutscher reported that this proposed change increases the education reimbursement to qualified staff from \$900 to \$1500.

It was MOVED/SECONDED (Baker/Kannappan) to approve the Committee's recommendation to post §131.35 in the Texas Register for comment. A vote was taken and the MOTION PASSED.

14. Legislative Committee.

Mrs. Reyna asked Mrs. Pipho to provide the Sunset report. Mrs. Pipho reported that both Sunset bills had passed, and staff is preparing to make changes to rules and processes according to the bill requirements.

15. Policy Advisory Opinion Committee. Mrs. Baker reported that the Committee discussed two Policy Advisories: EAOR#34 which had Mr. Womack assigned as a Board liaison; and EAOR #35 which had a response letter which the Committee approved with edits.

- **Engineering Advisory Opinion Request.**
 - **Present, discuss and possibly approve for consideration a response to EAOR #35 – Oil Well Production Casing String Design.** This Policy Advisory Opinion Request was a result of email exchange regarding if a professional engineer is required to design the production casing string of an oil well.

It was MOVED/SECONDED (Baker/Ballí) to approve the Committee's recommendation to approve the response w/edits to be sent to the requestor. A vote was taken, and the MOTION PASSED.

- **EAOR #34 – Industry Exemption.** This request asks the Board to issue a Policy Advisory Opinion regarding Industry Exemption as they apply to consulting companies performing engineering from their own offices for industrial clients.

It was MOVED/SECONDED (Baker/Ballí) to approve the Committee's recommendation and assign Mr. R. Kyle Womack, P.E., Board liaison to work with staff on this request. A vote was taken and the MOTION PASSED.

16. Nominating Committee.

- **Discuss and possibly act on the nomination of officers for the remainder of Fiscal Year 2013.**

It was MOVED/SECONDED (Ballí/Kannappan) that the Board accept the Nomination Committee's recommendation to approve the nomination of Mrs. Elvira Reyna as Secretary for the Board. A vote was taken and the MOTION PASSED.

- **Discuss and possibly act on the nomination of officers for Fiscal Year 2014.**
- It was MOVED/SECONDED (Womack/Ballí) the the Board accept the Nomination Committee's recommendation to approve the following slate of officers for FY14: James "Jim" Greer, P.E. as Vice Chair; Elvira Reyna as Secretary; Edward L. Summers, Ph.D., as Treasurer. A vote was taken and the MOTION PASSED.

17. Licensing Committee.

- Personal Appearances from Licensing Applicants.

It was MOVED/SECONDED (Ballí/Reyna) to approve the Committee's following recommendations: **6 approved to take PE exam:** Jeremy Austin, Seth Bamesberger, Nicholas Dudley, Kenneth Jurado, Wesley Shutter, Caleb Warren; **1 approved for licensure in Texas:** Jeremy Frazier; **6 approved to take PE exam with additional exceptions:** Robert Chambers, Alberto Escobar, Lucas Suelflow, Patricia Trujillo, Thomas Laurence, Andrew Weaver; and **1 denied to take the PE exam:** Emily Lane. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Reports or Items reported by the Executive Director:

18. Executive Director's Report.

- **Activity Report.** Mr. Kinney reported that his activity report was included for the Board to review.
- **CBT.** The FE exam will be available via computer based testing starting in January 2014. Registration will be directly with NCEES. Information will only be transferred to the Board only if the examinee passes. Currently the FE exam via CBT is set to cost \$250; however, a fee change has been proposed to change the fee to \$225. Applicants may take the exam eight months in one year instead of before when it was only available twice a year. Staff will work on proposed rule changes in August 2013.
- **NCEES.**
 - **NCEES nomination for a one-year term for Southern Zone Secretary/Treasurer for Sam Kannappan, P.E., TBPE Board Member.** Mr. Kinney reported that Mr. Sam Kannappan, P.E., Board member is seeking nomination from the Board for the NCEES Southern Zone Secretary/Treasurer position. Dr. Wong added that Mr. Kannappan has been active with NCEES and our Board. It was MOVED/SECONDED (Summers/Reyna) to endorse the nomination of Mr. Sam Kannappan, P.E., Board member, for the NCEES Southern Zone Secretary/Treasurer position. A vote was taken and the MOTION PASSED.
 - **Report on Central/Southern Zone Meeting -April 4-6, 2013.** Mr. Kinney reported that the draft minutes are included as an exhibit for Board members to review. At the upcoming NCEES annual meeting discussion will include NCEES funding travel for up to two new Board members within 24 months of their appointment and possibly including funding for MBAs. The BS+30 implementation was discussed and how NCEES would be able to provide a clearing house for acceptable credits. An Industrial Exemption task force was established to review and work on changes to exemption in the states. The Outreach Task Force reported on how they are preparing for the CBT Outreach. NCEES has also done YouTube and other social media outreach. Mrs. Pipho added that our Executive Director was awarded the Southern Zone Meritorious Service Award. Mr. Kinney also reported that there is a proposal to give each board state two votes – one for an engineering board and one for a surveying board - and this will be presented as a motion at the NCEES Annual meeting in August 2013.
 - **NCEES Motions.** Staff will summarize motions for Board members to review.
 - **Annual Meeting-San Antonio.** A brochure of the annual meeting is included. Deadline to register is July 12, 2013. Dr. Wong encouraged all Board members to attend. Mr. Kinney asked for volunteers to provide an invocation; if interested, let him know. Staff and attendees will meet at the hotel the day before the NCEES Board meetings to review NCEES motions. Another item on the agenda is a tie breaker vote for the NCEES President-Elect; both candidates are from the Northeast Zone.
- **Sunset Update. Both bills have passed.** Report and statutory language is included as well as a summary of potential rule changes. Mr. Clark added that rule proposals are being worked on and will be presented at the August meeting.
- **Journey Toward Excellence.** No specific report.
- **Staff Attorney Report (Dewey Helmcamp III, J.D.).** Mr. Helmcamp reviewed the report included as an exhibit.
- **Outreach.**
 - **Report-March 19, 2013, Webinars.** The initial webinar was successful. Originally, one webinar was scheduled, but had to add a second one due to overwhelming response.
 - **June 6, 2013, Webinars.** Webinars are scheduled on a quarterly basis, the next one is scheduled June 6th.
 - **Kudos.** Response letters from presentation/webinar attendees are included for the Board members to review. If anyone has any questions, please contact Mr. Kinney.

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

19. *(Consent Agenda) Administrative Reports, Outstanding Administrative Penalties Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments.

Agenda item #19 was approved under Consent Agenda.

20. Agreed Board Order.

1. Donatus Anyanwu, PhD., P.E. – D-31880, D-31963, B-31881 (Greer)
2. Manuel Flores, P.E. – D-34001 (Kannappan)
3. Charles O. Mbeche, P.E. – D-33368 (Summers)
4. Nikolay N. Nikolov, P.E. – D-33735 (Kannappan)

Mr. Clark reviewed the Agreed Board Orders with the Board, and investigators were present to answer questions.

It was MOVED/SECONDED (Womack/Baker) to approve the Agreed Board Orders as submitted. A vote was taken and the MOTION PASSED.

21. Consent Orders.

SOAH Result

(None)

Informal Reprimands (In accordance with Board Rule 139.31(b) individual names are not listed)

5. D-34249
6. D-33475
7. D-33853

Non-Practice Violations

8. Brian C. Schaller, P.E. – D-34197

Practice Violations

9. Masoud Khoshnoudi, P.E. – D-33510
10. Calvin J. Morgan, P.E. – D-33856
11. Joseph W. Steede, Jr., P.E. – D-33992

Sanctions Against Non-License Holders

12. Paul C. Grimes, R.A. – B-33562

Firm Registrations/Sole Proprietorship Sanctions

(None)

Mr. Clark reviewed the Consent Orders with the Board.

It was MOVED/SECONDED (Summers/Nejad) to approve the Consent Orders as submitted. A vote was taken and the MOTION PASSED.

22. Discuss, possibly act on request to reconsider Approved Board Order

• **Floyd Ottis Lee, P.E. - D-32943.**

Mr. Clark and Mr. Helmcamp addressed the Board and informed them that Mr. Lee was requesting the Board reconsider the Consent Order he signed, and reinstate his probation. Mr. Lee addressed the Board and took full responsibility for his actions, and asked the Board to reconsider his request. The Board members and Mr. Lee discussed his situation at length.

It was MOVED/SECONDED (Summers/Ballf) to reconsider the Consent Order and reinstate Mr. Lee's probation. A vote was taken, and the MOTION PASSED.

Board Chair returned to regular agenda, see agenda item #9 above.

Discuss and Possibly Act on Licensing Applications requiring board ruling:

23. *(Consent Agenda) Licensing Applications

Vote or Reconfirm Votes Pursuant to Board Rule §133.87:

Approved for Exams

Approved for Licensure
Exams Not Approved
Firms Approved
Not Approved for Licensure
Auto Not Approved for Licensure
Waivers – Both
Waivers – FE
Waivers—PE

Agenda item #23 was approved under Consent Agenda.

Discuss and Possibly Act on Other Matters

24. Thank Board members for their service to TBPE.

- G. Kemble Bennett, Ph.D., P.E.
- Gary Raba, D.Eng., P.E.

Dr. Wong thanked Dr. Bennett, P.E., and Dr. Raba, P.E., for all their support, leadership, time and effort for serving on the Board. Dr. Summers recommended that the Board write a Resolution for all Board members' whose term has been completed.

25. Issues from Board members for future meetings. None.

Adjourn.

It was MOVED/SECONDED (Summers/Baker) to adjourn the meeting at 12:25 pm. A vote was taken and the MOTION PASSED.

Date Board approved as submitted: August 29, 2013